

L I C E N S E A G R E E M E N T

Agreement No. _____

This License Agreement ("License") is made as of this _____ day of _____, 2011, by and between the CITY OF SANTA BARBARA, a Municipal Corporation (hereinafter called "City"), and _____, (hereinafter called "Licensee").

NOW THEREFORE, City shall permit Licensee to conduct a coastal cruise and charter operation within certain areas of the Santa Barbara Harbor, under the following terms and conditions.

1. SITE

A. Site Defined: The term "Site," as used herein, shall mean the Stearns Wharf Ticket Kiosk and Stearns Wharf Passenger Loading Ramp as shown on Exhibit "A", incorporated herein by this reference, and described further herein:

(1) Stearns Wharf Passenger Loading Ramp: The Licensee will have non-exclusive use of Stearns Wharf Passenger Loading Ramp, for the commercial embarkation and debarkation of passengers only. Licensee agrees not to use the Stearns Wharf Passenger Loading Ramp for any other purpose, nor to engage in any other business activity on the Stearns Wharf Passenger Loading Ramp without the City's prior written consent. Licensee may have non-exclusive use of the Stearns Wharf Passenger Loading Ramp for special events with the written consent of the Waterfront Director. City may enter into any other agreement for use of the Stearns Wharf Passenger Loading Ramp for commercial purposes or special events. No part of this License shall preclude the use of the Stearns Wharf Passenger Loading Ramp by the public for non-commercial activities or by the City for any purpose the City deems appropriate. Licensee must receive training from Stearns Wharf Maintenance staff prior to operating the Stearns Wharf Passenger Loading Ramp. Licensee agrees not to raise or lower the Stearns Wharf Passenger Loading Ramp while any person or property is on the Stearns Wharf Passenger Loading Ramp.

(2). Stearns Wharf Ticket Kiosk: The Licensee will have non-exclusive use of the Stearns Wharf Ticket Kiosk ("Kiosk") located near the top of the Stearns Wharf Passenger Loading Ramp for the purpose of selling tickets to passengers of Licensee's coastal cruise and charter concession and merchandise permitted in paragraph D herein and for no other purpose. City may enter into any other agreement for use of the

Stearns Wharf Ticket Kiosk for commercial purposes or special events.

2. LIMITS OF USE; OPERATION AND MAINTENANCE OF SITE

A. Use: Licensee is permitted the non-exclusive periodic use of the Site for the commercial embarkation and debarkation of passengers utilizing Licensee's vessels(s) for its coastal cruise and charter operations. Licensee shall utilize the Site for purposes of facilitating its coastal cruise and charter operation in conformance with the requirements herein. Licensee shall operate and staff the Site and operate coastal cruise and charter operations seven days a week, weather permitting, at least between the hours of 12:00 PM to 4:00 PM from May 1 through September 30. Licensee shall staff the Site and operate coastal cruise and charter operations every Saturday and Sunday between the hours of 12:00 PM to 4:00 PM from October 1 through April 30, weather permitting. Extended hours are encouraged

This License does not convey any right, title or interest in any City property.

B. Slip Permit Separate: City and Licensee hereby acknowledge that the vessel berth(s) is/are controlled by a separate agreement.

C. Operation-General: The Licensee recognizes and acknowledges that the manner in which the Site is used and operated is of critical concern to City, and, specifically to Stearns Wharf (also referred to hereinafter as "the Wharf") by reason of (a) the prominence of the location of the Site, (b) the impact which the Licensee's business is expected to have upon surrounding properties and upon the operation of Stearns Wharf.

Licensee shall not be required to operate if, in Licensee's determination, the sea, wind or weather conditions present a safety hazard or in the event of severe inclement weather; provided, however, that the Licensee must notify, in writing, the Waterfront Department of the temporary cessation of operations. Furthermore, Licensee shall include an estimate of when operations are expected to resume.

If Licensee fails to operate for more than seventy-two consecutive hours during the period from March 1 through November 30, without weather related cause, the Waterfront Director may determine that the Licensee has abandoned the business and in his/her sole discretion, terminate this License. During the period from December 1 through March 1, if the Licensee fails to operate the business for more than two consecutive weekends without weather related cause, the Waterfront Director may determine that the Licensee has abandoned the business and in his/her sole discretion, terminate this License. The purpose of this section is to give the City assurance that a consistent business is operating as many days per year as possible, with extended hours whenever weather permits.

D. Special Conditions Licensee may sell one model of t-shirt, hat and sweatshirt, that carries a design/logo featuring the name and location of the business only. The sale of

any other merchandise, beverage, food, or incidental goods or services is prohibited unless otherwise provided for in this License. Licensee may display advertisements and brochures within the interior of the Vessel. In the event of a dispute between any two or more businesses regarding the carrying of specific merchandise or service, the Waterfront Director shall make the final determination.

3. TERM

The term of this License is _____ years, commencing on _____ (Commencement Date) and terminating on _____, ("Termination Date").

4. RENT

A. Base Rent - Licensee shall pay to City in lawful money of the United States of America, a monthly Base Rent of Two Thousand Two Hundred Dollars (\$2,200.00), from the Commencement Date of this License throughout the term of this License. Licensee shall pay the Base Rent to City in advance on the first day of each month.

B. Percentage Rent - From the Commencement Date, and continuing throughout the term of this License, Licensee covenants and agrees to pay, in addition to the Base Rent hereinabove agreed to be paid to City, without abatement, deduction or offset, except as specifically set forth in Section B hereof, additional rent ("Percentage Rent") equal to the amount by which the following percentages of "Gross Receipts" for the identified components, in the aggregate, exceeds the Base Rent, as follows:

(1) Fifteen percent (15%) of permitted coastal cruises, charters, food and beverage.

(2) Fifteen percent (15%) of merchandise, services and any other sales not specifically identified above.

C. Payment Procedures

Licensee shall render to City on or before the fifteenth (15th) day of each calendar month, a true and accurate statement of all Gross Receipts for the preceding calendar month. The statement shall be signed by Licensee or its responsible agent under penalty of perjury, and shall be in the form reasonably prescribed by the Waterfront Director, and shall include:

- 1). The total Licensee's Gross Receipts for each period.
- 2). The total exclusions from Gross Receipts as permitted in

Section E below, itemized as to each exclusion, providing description, amount, type and documentation; and

3). The total Percentage Rent. The total of the Percentage Rent in excess of the Base Rent previously paid shall represent the amount due and payable concurrent with the rendering of the statement.

Licensee recognizes that late payment of base rent and/ or percentage rent represents an expense to City. Licensee therefore agrees that if any rent is not received by the City by the 10th day following the date due, fifteen percent (15%) of the amount of the delinquent rent will be assessed as a late penalty.

D. Definition of Gross Receipts

Licensee's Gross Receipts for the purpose of determining Percentage Rent payments to City shall be defined as:

1). The entire amount of all prices charged, whether wholly or partly for cash or on credit or in barter or otherwise, for all goods, wares and merchandise sold, leased, licensed or delivered and all charges for services, sold or performed in, at, upon or from any part of, or through the substantial use of or pertaining to, the Site by Licensee or any other person, firm or corporation or by means of any mechanical or other vending device.

2). All Gross Receipts of Licensee or any other person, firm or corporation from any operations in, at, upon, pertaining to, or from the Site which are neither included in, nor excluded from Gross Receipts by other provisions of this License, but without any duplication.

3). Without limitation, all deposits received and not refunded to the purchaser in connection with any transaction; and

4). All orders secured or received on or off the Site by telephone, internet, mail, house-to-house or other canvassing by personnel operating from, reporting to or under the supervision of any employee, agent or representative located at, or operating out of the Site or which Licensee, in the normal and customary course of its operation, would credit or attribute to its business on the Site.

5) All revenue from tickets and permitted merchandise sold by any outside party such as a ticket broker.

Each transaction on an installment basis (including without limitation, so-called "lay-away" sales) or otherwise involving the lending of credit shall be treated as a sale for the full price in the month in which such transaction was entered into, irrespective of the time of payments or when title passes.

E. Allowable Deductions to Gross Receipts

"Gross Receipts" shall not include, or if included, there shall be deducted (but only to the extent they have been included and paid), as the case may be:

1). The net amount of cash or credit refunds or adjustments in fact made upon sales from the Site, where the goods or services, sold or some part of it is returned or not used by the purchaser to and accepted by Licensee (but not exceeding, in any instance, the selling price of the item in question).

2). The amount of any City, County, State or Federal sales, or gross receipts taxes now or hereinafter imposed on sales from the Site where such taxes are paid to the taxing authorities by Licensee (but not by any vendor of Licensee);

Except as expressly provided in E above, there shall be no deduction from "Gross Receipts" for any overhead or cost or expense of operation, such as, but not limited to, salaries, wages, costs of goods, interest, debt amortization, discounts, boat payments, collections, insurance premiums and property or possessory interest taxes.

F. Accounting Procedures

Licensee shall keep and maintain on the Site, or, if City is notified in writing, at its headquarters elsewhere in Santa Barbara, California, full, complete and appropriate books, records and accounts relating to the Site, including all such books, records and accounts necessary or prudent to evidence and substantiate in full detail Licensee's calculation of Percentage Consideration. All books, records and accounts relating, in City's reasonable judgment, to Licensee's compliance with the terms and conditions of this License shall be kept and maintained in accordance with generally accepted accounting principles consistently applied and shall at all times during normal business hours be open to and available for inspection by City, its auditors or other authorized representatives. If, at any time during the term hereof, said books, records and accounts are deemed inadequate or incomplete in accordance with the standard set forth herein, Licensee shall, at the request of City, revise, adjust, complete, procure and maintain such books, records and accounts so that they conform to said standards in City's reasonable judgment. Copies of all sales tax reports and Internal Revenue tax reports or any other reports that Licensee may be required to furnish any governmental agency shall, at all reasonable times, be open for inspection by City at the place that the books, records and accounts of Licensee are kept. City shall have the right to audit and examine the books, records and accounts of Licensee necessary for a proper determination of the amount of Licensee's Gross Receipts, and all such books and records shall be held available for such purpose. Licensee shall preserve records on which any statement of Gross Receipts is based for a period of not less than five years after such statement is rendered.

G. Accounting Records

The receipt by City of any statement pursuant to this Section or any payment by Licensee or acceptance by City of any Percentage Rent for any period shall not bind City as to the correctness of such statement or such payment. Within five years after the receipt of any such statement, City or any designated agent or employee of City at any time shall be entitled to an audit of the Gross Receipts and all books, records, and accounts of Licensee pertaining thereto. Such audit shall be conducted during normal business hours at the principal place of business of Licensee. If it shall be determined as a result of such audit that there has been a deficiency in the payment of Percentage Rent, then such deficiency shall become immediately due and payable with interest from the date when said payment should have been made until the date of full payment. Interest shall be calculated at the rate of ten (10%) percent per annum, unless a higher rate of interest is authorized by statute of the State of California for written contracts, in which case the highest rate of interest that is authorized shall apply.

5. CONDITION OF THE SITE

The Site is licensed to Licensee in an "as is" condition, and Licensee agrees that it has investigated the condition of the Site and determined that the Site and the access to the Site is suitable to the operations of Licensee for the term of this License.

If repairs, rebuilding or replacement obligations of City affecting the Site require closure of all or a portion of the area occupied by the Licensee, it shall be done in a manner to perform in the public interest. Should repair, reconstruction or building of any Wharf facility require City to close the Site to public access, City agrees that such work shall be completed in a manner to perform in the public interest. City shall have no liability to Licensee for lost business caused by an interruption of access to the Site. However, should the City by its sole action prevent public access to the Site for more than 72 hours, and the Site would be accessible but for the City's action, the Licensee shall be entitled to a daily offset equal to 1/30 of the minimum monthly rent for each day after the first 72 hours until public access to the Site is restored by the City.

City has no liability for an interruption in utility services necessary to operate the Site or interruption in access to the licensed site by accident, storm damage or any other reason.

6. NONDISCRIMINATION

Licensee agrees to comply with the Certificate of Nondiscrimination, attached hereto and incorporated herein as Exhibit "C".

7. RESTRICTIONS UPON USE

A. Licensee agrees that, in connection with the use and operation of the Site, it will not:

1). Use or permit the use of any objectionable advertising or communication medium such as, without limitation, loudspeakers on the vessel(s) or Kiosk, phonographs, public address systems, sound amplifiers, radios or broadcasts within or from the Site in such manner that any sounds reproduced, transmitted or produced shall be audible or otherwise observable beyond the interior of the Site, and will keep all mechanical apparatus free of vibration and noise which may be transmitted beyond the interior of the Site;

2). Cause or permit objectionable odors to emanate or be dispelled from the Site;

3). Permit any use of the Site or any part thereof in a manner likely to injure the reputation or visual beauty of the Waterfront, Santa Barbara Harbor, Stearns Wharf, or the City of Santa Barbara;

4). Permit undue accumulations of garbage, trash, rubbish or any other refuse;

5). Permit any materials provided to customers including beverage containers and implements and condiments to be of any material except that which is biodegradable in ocean waters;

6). Permit any use of the Site, nor acts done by Licensee, which could cause a cancellation of any insurance policy covering the Harbor area, or any part thereof, or any building or improvements thereon, any article which may be prohibited by any insurance policies covering the Harbor area, said buildings or improvements;

7). Waste water, electricity or any other utility;

8). Erect, place, operate or maintain any improvement within the Site, nor conduct any business or activity, in violation of the terms of this License, or in violation of any regulation, order of law, statute, bylaw or ordinance of a governmental agency having jurisdiction over the Site;

9). Use or permit the use of the Wharf, the Passenger Loading Ramp, or Kiosk for storage of any kind. Licensee agrees that the Site shall be maintained in a clear and unobstructed manner at all times; and

10). Cause or permit the obstruction of the Stearns Wharf Passenger Loading Ramp.

11). Solicit Licensee's business on the Wharf deck and common areas of the Wharf or sell, vend, peddle, hawk, pitch, or distribute printed materials outside of the Kiosk.

B. The Licensee agrees to register, with the Harbor Patrol, the vessel(s) used pursuant to this License.

C. The Licensee agrees to be responsible for any additional costs incurred by the City as a result of Licensee's operation.

D. The Licensee agrees to provide the Harbor Patrol and United States Coast Guard immediate access to its vessel(s), at any time, for the purpose of a safety inspection of said vessel(s).

E. The City reserves the right to terminate the Licensee's operation at any time the City in its sole discretion finds the operation is unsafe.

F. The City reserves the right to impose restrictions on the Licensee's operations, from time to time, due to possible conflicts with major special events scheduled in the Waterfront area during the year. The restrictions shall be imposed at the sole discretion of the Waterfront Director.

G. The Licensee agrees to obtain and maintain all required permits, licenses, certifications and environmental review clearances required for the business.

8. SIGNS

All signs shall be installed, maintained and permitted in accordance with the sign regulations of the Santa Barbara Municipal Code and, in addition, shall be approved by the City Administrator. "Sign" shall have the meaning set forth in said sign regulations.

9. GOVERNMENTAL REQUIREMENTS

Licensee shall at all times comply with and shall pay all costs and expenses which may be incurred or required to be paid in order to comply with any and all laws, statutes, ordinances, which govern, apply to or are promulgated with respect to the operation and use of the Site by Licensee. Specifically, but without limiting the generality of the foregoing, Licensee shall make any alterations or additions required to be made to or safety appliances or devices required to be maintained or installed in or about the interior of all improvements located upon the Site under any laws, statutes and ordinances, now or hereafter adopted, enacted or made and applicable to the Site.

Licensee shall comply with each and every requirement of all policies of public liability, fire and other insurance which at any time may be in force with respect to the Site.

The judgment of any court of competent jurisdiction or the admission of Licensee in any action or proceeding against it, whether City be a party thereto or not, that Licensee has violated any such ordinance or statute in the use of the Site shall be conclusive of that fact as between City and Licensee.

10. TAXES

Licensee acknowledges and agrees that this License may create a possessory interest subject to property taxation. Licensee agrees to pay and discharge during the term of this License, before delinquency, all taxes (including, without limitation, possessory interest taxes associated with the Site and the execution of this License), assessments, fees, levies, license and permit fees and other governmental charges of any kind or nature whatsoever, general and special, ordinary and extraordinary, foreseen, and unforeseen or hereinafter levied or assessed in lieu of or in substitution of any of the foregoing (all of the foregoing collectively called "taxes" for all purposes under this License) which are or may be at any time or from time to time during the term of this License levied, charged, assessed or imposed upon or against the Site, or against any of Licensee's personal property now or hereafter located thereon, or which may be levied, charged, assessed or imposed upon or against the estate created hereby or which may be imposed upon any taxable interest of Licensee acquired pursuant to this License on account of any taxable possessory right which Licensee may have acquired pursuant to this License, or which may be levied upon or measured by the consideration payable hereunder, including, without limitation, any gross receipts tax levied by the City of Santa Barbara, the State of California, the federal government or any other governmental body with respect to receipt of such consideration by City whether or not the same shall have been in the express contemplation of City and Licensee.

11. ASSIGNMENT AND SUBLETTING

A. Assignment and Subletting

In view of the fact that the Site constitutes a major and indispensable component of the Waterfront Department's plan for the Harbor and that, therefore, the identity of the Licensee of the Premises is of the utmost concern to the City, Licensee, its successors and assigns, shall not assign, either voluntarily or by operation of law, its interest in this License to all or any part of the Premises or allow any other person or entity (except Licensee's authorized representatives) to occupy or use all or any part of the Premises without the prior written consent of City, which consent may be withheld in the sole and absolute discretion of City during the initial two (2) years of the License term, and which consent may be withheld, at any time, if the proposed transferee does not have the qualifications and financial responsibility as determined by City necessary and adequate to fulfill the obligations undertaken in this License by Licensee, or for other good reasons. Licensee shall not have the right to sublease or sublet under any circumstances, and any attempt to sublease shall be a breach of this License and any such subtenant is unlawfully in possession of Premises.

In giving its consent pursuant to the above paragraph, City shall, in addition to any other requirements or conditions, require compliance with the following:

1). Any proposed transferee shall have the qualifications and financial responsibility, as determined by City, necessary and adequate to fulfill the obligations undertaken in this License by Licensee. In addition, for the purposes of this provision, the following acts of Licensee are examples of and shall be considered assignments and shall require the prior written consent of City to be effective:

a. Partnership and L.L.C. Transfers: If Licensee is a partnership or a California limited liability company, a transfer of capital interest to a new partner or partners (or member or members) which computed alone or cumulatively with previous transfers would result or has resulted in the transfer of ownership of a more than twenty-five percent (25%) interest in the capital on profits of the partnership or limited liability company; provided that the following transfers shall not be considered in computing whether a cumulative total of more than twenty-five percent (25%) of the capital of the partnership or limited liability company has been transferred:

(1) Transfers to persons who are related by blood or marriage to the transferring partner or member or to a trust established for the benefit of the transferring partner or member or such persons;

(2) Transfers resulting from the death of the partner or member whether such transfers are made pursuant to the will of the deceased partner or member an inter vivos or testamentary trust instrument or the laws of intestacy.

b. Corporations: The transfer of more than twenty-five percent (25%) of the voting stock in a corporation which is either itself the Licensee, or is a general partner in a partnership which is the Licensee; provided that the following transfers shall not be considered in computing whether a cumulative total of more than twenty-five percent (25%) of the voting stock has been transferred:

(1) Transfers to persons who are related by blood or marriage to the transferring shareholder or to a trust established for the benefit of the transferring shareholder or such persons;

(2) Transfers resulting from the death of the shareholder whether such transfers are made pursuant to the will of the deceased shareholder an inter-vivos trust instrument or the laws of intestacy;

2). Any proposed transferee shall have expressly assumed, by instrument in writing, for itself and its successors and assignees, and expressly for the benefit of City, all of the obligations of Licensee under this License. Any proposed transferee shall have agreed to be subject to all of the conditions and restrictions to which

Licensee is subject. However, the failure for any reason, of any transferee, or any successor in interest whatsoever to this License, to have assumed such obligations, shall not relieve or except such transferee or successor of or from such obligations, conditions or restrictions or deprive or limit City of or with respect to any rights or remedies or controls with respect to this License, the Premises or any required construction of improvements. It is the intent of this License, to the fullest extent permitted by law and equity and excepting only in the manner and to the extent specifically provided otherwise in this License, that transfer of this License, or any interest herein, however consummated or occurring, and whether voluntary or involuntary, shall not operate, legally or practically, to deprive or limit City of or with respect to any rights or remedies or controls provided in or resulting from this License with respect to the Premises and construction of improvements that City would have had, had there been no such transfer or change.

3). There has been submitted to City for review, and City has approved, all instruments and other legal documents involved in effecting transfer of the leasehold interest.

4). A processing fee of \$3,000 has been paid to City for review of each proposed assignment.

5). If, notwithstanding the provisions of this section, this License is assigned by operation of law in connection with any proceedings under state or federal insolvency or bankruptcy law, or any comparable law, whether for liquidation or reorganization, City shall have a right of first refusal to purchase this License. If any trustee or debtor in possession (collectively "trustee") receives an acceptable offer to purchase this License, such trustee shall notify City in writing of the terms of such offer. If City within thirty (30) days after receipt of such notice, indicates in writing its agreement to purchase this License on the terms stated, the trustee shall sell and convey this License to City on the terms stated in the notice. If the City does not indicate its agreement within thirty (30) days, the trustee shall thereafter have the right to assign this License to the party making the offer on the terms of such offer. If such offeror does not purchase this License on such terms and conditions, City shall have a right of first refusal to purchase this License in the event of any later offer for the purchase of this License. If an offeror purchases this License in connection with any proceedings under state or federal insolvency or bankruptcy law, or any comparable law, whether for liquidation or reorganization, City shall have the option to purchase this License from such party for an amount equal to the amount such party paid for this License, at any time within one (1) year from the date of such offerors' purchase thereof.

Licensee represents and agrees for itself and any successor in interest of itself that without the prior written approval of City, there shall be no significant change (voluntary or involuntary) in the membership, management or control of Licensee which would prevent or impair the ability of Licensee to complete its obligations under this License.

Licensee shall promptly notify City of any and all significant changes in the membership, management or control of Licensee whether legal or beneficial, or of any other act or transaction involving or resulting in any change in the ownership or identity of Licensee, or with respect to the identity of the parties in control of Licensee or the degree thereof, of which it or any of its officers have been notified or otherwise have knowledge or information. This License may be terminated by City hereof if there is any significant change in the membership, management or control of Licensee whether legal or beneficial, or of any other act or transaction involving or resulting in any change in the ownership or identity of Licensee, or with respect to the identity of the parties in control of Licensee or the degree thereof, of which it or any of its officers have been notified or otherwise have knowledge or information.

No assignment of any interest in this License made with City's consent, or as herein otherwise permitted, shall be effective until there shall have been delivered to City an executed counterpart of such assignment containing an agreement, in recordable form, executed by the assignor and the proposed assignee, wherein and whereby such assignee assumes due performance of the obligations on the assignor's part to be performed under this License to the end of the term hereof.

The consent by City to an assignment hereunder shall not in any way be construed to relieve Licensee from obtaining the express consent in writing of City to any further assignment.

Notwithstanding an assignment by Licensee hereunder to which City has consented, Licensee shall remain liable for all liabilities and obligations incurred by Licensee hereunder prior to the date of said assignment.

B. Successors and Assigns

The terms, covenants and conditions contained herein shall be binding upon and inure to the benefit of the heirs, successors, executors, administrators and assigns of the parties hereto, if approved by City pursuant to Section 601. If the License is transferred to a party not approved in advance, City may terminate License in its sole discretion.

C. Release of City

In the event of a sale, assignment, transfer or conveyance by City of the Premises or its rights hereunder, the same shall operate to release City from any liability incurred following the effective date of such assignment upon any of the covenants or conditions, expressed or implied, herein contained in favor of Licensee, and in such event, Licensee agrees to look solely to the responsibility of the successor in interest of City in and to the Premises or this License. This License shall not be affected by any such sale, assignment, transfer or conveyance, and Licensee agrees to attorn to any such purchaser or assignee.

D. Collateral Assignment of Rents and Leases

As part of a loan arrangement with the State of California, Department of Boating and Waterways ("DBAW") to fund the cost of certain improvements in Santa Barbara Harbor, City has executed a Collateral Assignment of Rents and Leases ("Assignment") in favor of DBAW. The Assignment is binding on Licensee and Licensee agrees to comply therewith. A copy of the Assignment is available upon written request from City.

12. AUTHORITY OF THE WATERFRONT DIRECTOR

Nothing in this License shall preclude the Waterfront Director, the City Council or the City from enforcing or establishing such rules and regulations as authorized by the Municipal Code for the administration of the Harbor and the use of the Site or as otherwise authorized by law.

13. INSURANCE

Licensee shall maintain and keep in force during the term of this License, for the mutual benefit of City and Licensee, at the Licensee's sole cost and expense, the following insurance policies:

A. Comprehensive broad form general liability insurance with limits of not less than one million dollars (\$1,000,000) each occurrence with combined single limits for bodily injury and property damage;

B. Protection and Indemnity covering the Vessel with limits of not less than one million dollars (\$1,000,000) each occurrence;

A certificate of current insurance shall be provided to the City of Santa Barbara within thirty (30) days of the Commencement Date and at all times during the term of this License. At a minimum, such certificate shall show i) the required amount and types of insurance, ii) list the City of Santa Barbara as an additional insured, iii) show the termination date of the policy, and iv) provide that the insurance may not be canceled or reduced in amount for any reason without thirty (30) days prior written notice to City.

14. HOLD HARMLESS

Licensee shall investigate, defend, indemnify and hold the City of Santa Barbara and its respective officers, agents and employees harmless from and against all liabilities, obligations, demands, damages, penalties, claims, costs, charges and expenses (including reasonable attorneys' fees) which may be imposed upon, incurred by or asserted against the City of Santa Barbara or its respective officers, agents and employees arising out of or in any way connected to this License.

In case any action or proceeding is brought against the City or its respective officers, agents and employees by reason of any such claim, Licensee, upon written notice from the City of Santa Barbara, shall at Licensee's expense resist and defend such action or proceeding by counsel approved by the City of Santa Barbara in writing.

15. DESTRUCTION

This License shall remain in full force and effect, including Licensee's obligation to pay consideration, in all events of destruction to the Site and all events of weather, disaster, or acts of God, unless otherwise modified or terminated by the mutual written agreement of City and Licensee.

16. NOTICES

If at any time after the execution of this License, it shall become necessary or convenient for one of the parties hereto to serve any notice, demand or communication upon the other party, such notice, demand or communication shall be in writing and shall be served personally or by depositing the same in the registered or certified United States mail, return receipt requested, postage prepaid and (1) if intended for City shall be addressed to:

City Clerk
City of Santa Barbara
P.O. Box 1990
735 Anacapa Street
Santa Barbara, CA 93102-1990

with a copy to:

Waterfront Director
City of Santa Barbara
132-A Harbor Way
Santa Barbara, CA 93109

and (2) if intended for Licensee shall be addressed to:

or to such other address as either party may have furnished to the other in writing as a place for the service of notice. Any notice so mailed shall be deemed to have been given as of the time the same is deposited in the United States mail.

17. DEFAULT AND RIGHT TO TERMINATE

If there should be any default in payment by Licensee of rent provided for herein when due and payable, City may give Licensee written notice to pay within ten (10) days all sums due, owing and unpaid, including any applicable late payment charge, and if such payment is then not made by Licensee within said ten (10) day period, this License at the option of the City, shall terminate.

If the Licensee shall neglect or fail to perform or observe any of the covenants contained herein, (other than the payment of rent as provided herein above) and on its part to be observed and performed for thirty (30) days after written notice by the City, this License shall terminate.

18. MISCELLANEOUS

A. In case any one or more of the provisions contained in this License shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this License, but this License shall be construed as if such invalid, illegal or unenforceable provisions had not been contained herein.

B. Nothing in this License shall be construed to create any duty to, any standard of care with reference to or any liability to anyone not a party except as otherwise expressly provided herein.

C. The words "City" and "Licensee" as used herein shall include a corporation and include the plural as well as the singular. Words used in the masculine gender include the feminine and neuter. If there be more than one City and Licensee, the obligations hereunder imposed upon City and Licensee shall be joint and several.

D. Time is of the essence of each and all of the agreements, covenants and conditions of this License.

E. This License shall be interpreted in accordance with and governed by the laws of the State of California. The language in all parts of this License shall be, in all cases, construed according to its fair meaning and not strictly for or against City or Licensee.

F. Licensee agrees to comply with the attached Exhibit "D" - Water and Energy Conservation Guidelines.

G. City and Licensee agree to fulfill the terms of the License in good faith.

H. In order to prevent any hindrance of or interference with the easy access of the public and business patrons to Stearns Wharf and the businesses thereon,

all vehicles belonging to Licensee (or to the owners, operators or employees of Licensee) shall not be parked on Stearns Wharf at any time, provided that Licensee may gain private vehicular access to the Wharf exclusively for the purpose of short-term (i.e., not to exceed one hour in length) loading and unloading in connection with the operation of the business. This provision shall not be construed to prevent service vehicles access to the Wharf in connection with service work requested by the Licensee in the operation of the Business. The temporary loading and unloading vehicular use of the Wharf permitted herein shall not be deemed an event of default for the purpose of Section 17.

I. Licensee agrees to participate in and support the Stearns Wharf Business Association during the term of this License. Furthermore, Licensee agrees to remain in good standing with the Association including the payment of dues. Failure to pay Association dues shall be considered a default under Section 1101 of this License, subject to the same remedies as a failure to pay rent. This provision shall be enforced provided that the City has determined that the dues of the Stearns Wharf Business Association are reasonable.

J. Licensee agrees that no animals under the control of Licensee or Licensee's employees will be permitted on Stearns Wharf. This Section shall not apply to any blind person owning or having possession, charge, custody or control of a guide dog.

K. This License constitutes the entire agreement between City and Licensee with respect to the subject matter hereof and supersedes all prior offers and negotiations, oral and written. This License may not be amended or modified in any respect whatsoever except by an instrument in writing signed by City and Licensee.

L. License agrees to comply with the attached Exhibit "E" - Personal Guaranty of License.

(Signatures appear on following page)

IN WITNESS WHEREOF, City and Licensee have executed this License as of the date and year first written above.

CITY OF SANTA BARBARA
A Municipal Corporation

LICENSEE

John N. Bridley
Waterfront Director

ATTEST:

Cynthia M. Rodriguez, CMC
City Clerk Services Manager

APPROVED AS TO CONTENT:

Scott Riedman
Waterfront Business Manager

APPROVED AS TO FORM:
Stephen P. Wiley
City Attorney

By _____
Sarah J. Knecht
Assistant City Attorney

BUSINESS TAX COMPLIANCE:
Certificate No. _____

APPROVED AS TO INSURANCE:

Mark Howard, Risk Manager